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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

MATTHEW MARSHALL, et al., Plaintiffs, v. MICHAEL L. GOGUEN, et al. Defendants.	19:21-CV-00019 DWM PLAINTIFFS' UNOPPOSED MOTION FOR CONTINUANCE OF THE MAY 11, 2022 MOTIONS TO DISMISS HEARING
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Plaintiffs Marshall, Maguire, Bonnet, and Aguilar ("Plaintiffs"), by and through counsel respectfully request this Court to continue the hearing date currently set for May 11, 2022 at 10:00 a.m. until after July 7, 2022, preferably on one of the following dates: July 15th, July 18th - 20th or July 22nd, 2022. Plaintiffs have contacted opposing counsel who have indicated they do not object to a continuance and will not oppose this motion.

I. DISCUSSION

1. Good Cause Exists to Continue the Hearing

This Court set a hearing for May 12, 2022 at 10:00 a.m., for all parties to present arguments for the pending motions to dismiss Plaintiffs' First Amended Complaint. On April 25, 2022, the court, presumptively due to a Court scheduling conflict, reset the hearing for May 11, 2022 at 10:00 a.m. However, due to the reasons set forth below, Plaintiffs respectfully requests this Court to continue the date of the hearing until July 15, 2022 or the following week. which would: (1) enable Plaintiff's counsel to have established communications with Mr. Marshall who is presently incarcerated at FCI Terra Haute prison camp in Terra Haute, Indiana; (2) accommodate for Mr. Maguire's desire to personally attend the hearing; (3) accommodate for Plaintiff's counsel's conflicting trial schedule and family obligations; and (4) accommodate for all counsel's schedule.

A continuance would avoid prejudice to Plaintiff Matthew Marshall. Mr. Marshall entered federal custody on Tuesday, April 12th, 2022 at the Federal Corrections Institution's ("FCI") Terra Haute prison camp located in Terra Haute, Indiana. *See Declaration of Adam H. Owens* dated April 25, 2022 ("Owens Decl.") ¶ 2. Until Mr. Marshall is approved to communicate with Plaintiffs' counsel through phone or Corrlinks, a Bureau of Prisons approved inmate email service, or Plaintiffs'

counsel is approved to visit Mr. Marshall (approvals of all of which are believed to take several weeks or more), Plaintiffs' counsel will be unable to effectively communicate with Mr. Marshall in preparation for the May 11, 2022 Motions to Dismiss hearing.

See Owens Decl. § 4 – 6. The May 12, 2022 hearing concerns Defendants motion to dismiss, and if successful, may dispose of many if not all of Plaintiff's claims against Defendants. In all fairness, Marshall is not in control of the timeliness of his circumstances and should be given the opportunity to communicate with counsel to prepare for and defend against these motions. Even if Defendant's motion for dismissal is ultimately unsuccessful, Marshall's ability to participate in the process is crippled without the opportunity to adequately communicate with counsel prior to the hearing. As such, without continuance, Marshall would suffer extreme prejudice.

Second, Plaintiff John Maguire has expressed a desire to counsel that he wishes to personally attend the upcoming May 11th hearing. Unfortunately, he has informed Plaintiffs' counsel he will be out of the country at that time. *See Owens Decl.* ¶ 8. If the hearing were continued, Mr. Maguire would be able to attend personally.

Finally, Plaintiffs' counsel, Adam Owens, has encountered family obligations that have emerged between May 11-18, 2022. *See Owens Decl.* ¶ 8.

Further, Plaintiff's counsel will be preparing for a five-day May 23rd trial date set on an unrelated matter in San Bernardino, California. *See Owens Decl.* ¶ 9. Counsel

will need a few weeks to adequately prepare for that trial, attend the trial, and then another week or so to catch up on their workload after the trial. *Id.*

Though this case was initially filed February 12, 2021, this case is still in its' pleading stage. The motions to dismiss are directed at the First Amended Complaint, which was filed September 1, 2021. Defendants have not yet answered in this matter, and Discovery has not yet occurred. As such, continuing this hearing is unlikely to prejudice any of the parties.

Plaintiffs' counsel contacted Defendants' counsel on April 14, 2022 to request a 30-day continuance of the hearing then scheduled for May 12, 2022—that is, to a date on or after June 12, 2022. See *Owens Decl.* ¶10. Counsel for the FRC Defendants responded with an agreement not to oppose the request for continuance and asked to coordinate on proposing dates to the Court. *Id.* Counsel for the Goguen Defendants responded that their clients did not object to the request for a continuance but that the Quinn Emanuel Urguhart & Sullivan LLP and Worden Thane, P.C. attorneys had schedule conflicts for the second half of June 2022 and, accordingly, requested a hearing date on or after July 7, 2022. *Id.*

Based on the current schedules of Plaintiffs' counsel and Defendants' counsel, Plaintiffs request the Court to continue the May 11, 2022 hearing to one of the following dates: July 15th, July 18th - 20th or July 22nd, 2022. *Owens Decl.* ¶ 11.

II. CONCLUSION

Having shown good cause and for the reasons stated herein, Plaintiffs respectfully request this Court to continue the May 11, 2022 hearing to one of the dates proposed herein.

Dated this 25th day of April 2022.

GRANITE PEAK LAW, PLLC

By: /s/ Adam H. Owens

Adam H. Owens

Attorneys for Plaintiffs

By /s/ Gregory G. Costanza

Gregory G. Costanza

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CERTIFICATE OF SERVICE

I certify that on the 25th day of April 2022, I served a true and correct copy of the foregoing document via CM/ECF to the following:

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